

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:08-cr-0093-SEB-TAB-01
)	1:16-cr-0223-SEB-TAB-01
ELLIS MEMBERS,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

On February 7, 2018, the Court held a hearing on the Petitions for Warrant or Summons for Offender Under Supervision filed on September 29, 2017 and February 6, 2018. Defendant Members appeared in person with his appointed counsel William Dazey. The government appeared by Will McCoskey, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Chris Dougherty.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Members of his rights and provided him with a copy of the petition. Defendant Members orally waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Members admitted violations 1 and 2.
[Docket No. 74.]
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

**Violation
Number**

Nature of Noncompliance

- 1 **“The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance.”**

The offender submitted five positive urine drug screens which tested positive for illegal drugs on the following dates: August 7, 2017 (positive for cocaine, marijuana and morphine); August 10, 2017 (positive for cocaine and marijuana); August 15, 2017 (positive for cocaine and marijuana); August 17, 2017 (positive for cocaine and marijuana); August 24, 2017 (cocaine).

- 2 **“You shall reside at a Residential Reentry Center (RRC) for a period of up to 180 days, as directed by the probation officer. You shall follow all rules of the facility.”**

The offender is currently considered an absconder from his placement at the Residential Reentry Center, and from his term of supervised release. The offender incurred several violations of facility rules while a resident of the Volunteers of America (VOA) over the past four weeks.

On September 26, 2017, the offender was issued a pass to attend a court hearing in Louisville, Kentucky, for an Assault case (02F005295) that was pending prior to his first federal conviction. The offender failed to appear for that hearing and a warrant was issued for his arrest. At 12:00 p.m., staff members from Volunteers of America saw him eating lunch at a restaurant at 907 Indiana Avenue. They confronted the offender and directed him to return to VOA. The offender failed to return to VOA, and has not been seen since that date. He failed to respond to all efforts by his probation officer to contact him through his cell phone. An attempt to locate him at his prior residence, his parents' home, on September 28, 2017, was unsuccessful. The offender's current whereabouts are unknown.

While at VOA for less than four weeks, he incurred at least eight violations of facility rules, including being unaccounted for, being disruptive and being in possession of an authorized item (phone).

4. The government moved to dismiss violations 3, 4, and 5 and the same granted.

5. The parties stipulated that:

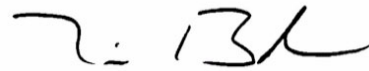
- (a) The highest grade of violation is a Grade B violation.
- (b) Defendant's criminal history category is V.
- (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 18 to 24 months' imprisonment.

6. Parties jointly recommended a sentence of eighteen (18) months with no supervised release to follow. Defendant requested placement at FCC Terre Haute.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of eighteen (18) months with no supervised release to follow. The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation. The Magistrate Judge further recommends that Defendant be placed at FCC Terre Haute.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the fourteen-day period to object to the Report and Recommendation.

Dated: 02/09/2018



Tim A. Baker
United States Magistrate Judge
Southern District of Indiana

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